

REMARKS

In the Advisory Action dated December 28, 2005, the last amendment was denied entry and the claims remained rejected on the basis that the amendment to delete "sawing" was said to require a further search and consideration. As such, Applicant filed on February 2, 2006 an RCE so that the Amendment after Final will be entered and treated on its merits.

In that Advisory Action, however, certain statements were made that Applicant feels merit a response.

Applicant's Affidavits were indicated by the Examiner as not convincing, particular with respect to the showing of commercial success and the use of an expert "opinion". Applicant submits that for a showing of commercial success, there inevitably must be some opinion involved, otherwise there is no way to show that the commercial success was, in fact, due to the elements set forth in the claims. Thus, Applicant submitted an affidavit of Robert Herpst, Managing Director of the company that produces the sample card covered by the claims in this application and which set forth an objective statement of the increased sales of the product and which was accompanied by the expert opinion to the effect that those sales were due to the merits of the claimed subject matter.

It is submitted that such submission is consistent with the case law that an objective statement simply showing an increase in sales is not sufficient as the increase may be due to other factors than the inventive subject matter. Accordingly it is believed that the combined affidavit of Dr deHaseth, a renowned authority in this field, combined with the affidavit of Mr. Herpst as to the increase in the sales, is well founded to show commercial success.

As to the "precision optical polishing", Applicant submits that there is an adequate explanation currently in the present specification as to the term and which has been explained in details in the amendment after Final Rejection that is now being entered and that it is clear from the specification as to what "polishing" is being excluded by the claim language.

Along with the present amendment Applicant is submitting a further declaration of Dr. de Haseth, a well recognized expert and authority in the relevant field, supplementing his previously filed declaration.

Accordingly, it is submitted that the claims currently in the present application are in allowable form over the references of record and an allowance of the present application is respectfully solicited.



Respectfully submitted,

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Attorney for Applicant